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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/294,181

04/19/1999

WILLIAM W. HOFFMAN

E-1654CIP

5863

7590

09/09/2004

JOHN F A EARLEY III
HARDING EARLEY FOLLMER & FRAILEY
86 THE COMMONS AT VALLEY FORGE EAST
1288 VALLEY FORGE ROAD PO BOX 750
VALLEY FORGE, VA 194820750

EXAMINER

FULTON, CHRISTOPHER W

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/294,181

Applicant(s)

HOFFMAN, WILLIAM W.

Examiner

Christopher W. Fulton

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2004.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 17-25 and 27-29 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13, 17-25 and 29 is/are rejected.
7) ☒ Claim(s) 27 and 28 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 24 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 13 is objected to because of the following informalities: Claim 13 lacks antecedent basis for "said first and second sets of numbers". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by McCully, Tursi, Benarroch, or Schlitt.

McCully discloses a "T" shaped tab portion 18,38 in a plane perpendicular to the blade.

Tursi discloses a "T" shaped tab portion 94 in a plane perpendicular to the blade.

Benarroch discloses a "T" shaped tab portion 47,48 in a plane perpendicular to the blade.

Schlitt discloses a "T" shaped tab portion 17,18 in a plane perpendicular to the blade.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 6-8, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCully, Tursi, Benarroch, or Schlitt in view of Drechsler.

The device as claimed is disclosed by either McCully, Tursi, Benarroch, or Schlitt as stated in the rejection recited above for claims 1 and 3, but lacks indicia along both longitudinal edges of the blade facing opposite directions so the scale can be read from either side of the tape and indicia along the top and bottom surfaces of the tape blade. Drechsler teaches using indicia along both longitudinal edges of the blade with the indicia facing opposite directions so the scale can be read from either side of the tape. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add indicia to both longitudinal edges of the blade of either McCully, Tursi, Benarroch, or Schlitt as taught by Drechsler so the tape scale can be read from either side of the tape. Drechsler also teaches placing indicia on the top and bottom surfaces of the blade so the scale can be read using the top or bottom surface indicia. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add indicia to the bottom surface of either McCully, Tursi, Benarroch, or Schlitt as taught by Drechsler so the distance can be read using either the top or bottom scale.

6. Claims 9, 10, 17, 19, 22, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCully, Tursi, Benarroch, or Schlitt in view of Pinney, Jr. et al.

The device as claimed is disclosed by the combination of McCully, Tursi, Benarroch, or Schlitt as stated in the rejection recited above for claims 1 and 3, but lacks the tab being a removable tap attachable to a standard tape tab by a slot. Pinney, Jr. et al teaches using a removable tab 17 with a slot to add specialty tab to a standard tab. Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to make the specialty tab of either McCully, Tursi, Benarroch, or Schlitt removable by a slot system as taught by Pinney, Jr. et al so the specialty tab can be attached to a standard tab of a standard tape.

7. Claims 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCully, Tursi, Benarroch, or Schlitt in view of Pinney, Jr et al as applied to claims 9, 10, 17, 19, 22, and 25 above, and further in view of Drechsler.

The device as claimed is disclosed by the combination of either McCully, Tursi, Benarroch, or Schlitt in view of Pinney, Jr et al as stated in the rejection recited above for claims 9, 10, 17, 19, 22, and 25, but lack indicia along both longitudinal edges of the blade facing opposite directions so the scale can be read from either side of the tape and indicia along the top and bottom surfaces of the tape blade. Drechsler teaches using indicia along both longitudinal edges of the blade with the indicia facing opposite directions so the scale can be read from either side of the tape. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add indicia to both longitudinal edges of the blade of the combination of either McCully, Tursi, Benarroch, or Schlitt in view of Pinney, Jr. et al as taught by Drechsler so the tape scale can be read from either side of the tape. Drechsler also teaches placing indicia on the top and bottom surfaces of the blade so the scale can be read using the top or bottom surface indicia. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add indicia to the bottom surface of the combination of either McCully, Tursi, Benarroch, or Schlitt in view of Pinney, Jr et al as taught by Drechsler so the distance can be read using either the top or bottom scale.

Double Patenting

8. Claims 1, 2, 4-13, and 19-25 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 5,894,677. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the application are broader than the patented claims which read on the application claims.

Allowable Subject Matter

9. Claims 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

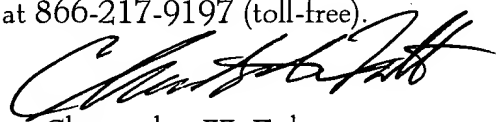
Response to Arguments

10. Applicant's arguments filed June 24, 2004 have been fully considered but they are not persuasive. The tab portion of McCully 18 and 38 is flat and dose not extend beyond the plan perpendicular to the blade.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher W. Fulton whose telephone number is (571) 272-2242. The examiner can normally be reached on M-Th 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher W. Fulton
Primary Examiner
Art Unit 2859

CWF